

AMENDED IN SENATE MAY 11, 1998
AMENDED IN SENATE MARCH 24, 1998
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AMENDED IN ASSEMBLY MAY 1, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1560

Introduced by Assembly Member Scott

March 11, 1997

An act to amend Sections ~~1371~~ *1371.1* and 1371.4 of the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1560, as amended, Scott. Health *facilities: health* care service plans: emergency care: reimbursement: *transfers*.

~~Existing law sets forth procedures whereby a health care service plan is required to reimburse provider claims.~~

~~This bill would entitle an emergency provider to prescribed penalties if a health care service plan fails to comply with those procedures.~~

Existing law regulates the transfer of persons needing emergency services and care from one hospital to another hospital.

This bill would change the conditions under which those transfers would occur.

Existing law requires a health care service plan to reimburse providers for emergency services and care, except

that a health care service plan may deny reimbursement if the plan enrollee did not require emergency services and care and the enrollee reasonably should have known that an emergency did not exist.

This bill would revise that exception to authorize a health care service plan to deny reimbursement ~~if an emergency, as described,~~ *if the plan enrollee did not require emergency services and care and if a prudent layperson possessing an average knowledge of health and medicine should have known that an emergency medical condition or active labor did not exist.* The bill would require a health care service plan also to reimburse a provider for an emergency medical screening examination, *including ancillary services routinely available to the emergency department.* The bill would change the definition of emergency services and care to include the care, treatment, and surgery by a physician or other appropriate personnel necessary to render the emergency medical condition or active labor stabilized.

Since willful violation of the law regulating health care service plans is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1371 of the Health and Safety~~
- 2 ~~Code is amended to read:~~
- 3 ~~1371. (a) A health care service plan, including a~~
- 4 ~~specialized health care service plan, shall reimburse~~
- 5 ~~claims or any portion of any claim, whether in state or out~~
- 6 ~~of state, as soon as practical, but no later than 30 working~~
- 7 ~~days after receipt of the claim by the health care service~~

1 ~~plan, or if the health care service plan is a health~~
2 ~~maintenance organization, 45 working days after receipt~~
3 ~~of the claim by the health care service plan, unless the~~
4 ~~claim or portion thereof is contested by the plan in which~~
5 ~~case the claimant shall be notified, in writing, that the~~
6 ~~claim is contested or denied, within 30 working days after~~
7 ~~receipt of the claim by the health care service plan, or if~~
8 ~~the health care service plan is a health maintenance~~
9 ~~organization, 45 working days after receipt of the claim~~
10 ~~by the health care service plan. The notice that a claim is~~
11 ~~being contested shall identify the portion of the claim that~~
12 ~~is contested and the specific reasons for contesting the~~
13 ~~claim.~~

14 ~~(b) If an uncontested claim is not reimbursed by~~
15 ~~delivery to the claimants' address of record within the~~
16 ~~respective 30 or 45 working days after receipt, interest~~
17 ~~shall accrue at the rate of 10 percent per annum~~
18 ~~beginning with the first calendar day after the 30- or~~
19 ~~45-working-day period.~~

20 ~~(c) For the purposes of this section, a claim, or portion~~
21 ~~thereof, is reasonably contested where the plan has not~~
22 ~~received the completed claim and all information~~
23 ~~necessary to determine payer liability for the claim, or has~~
24 ~~not been granted reasonable access to information~~
25 ~~concerning provider services. Information necessary to~~
26 ~~determine payer liability for the claim includes, but is not~~
27 ~~limited to, reports of investigations concerning fraud and~~
28 ~~misrepresentation, and necessary consents, releases, and~~
29 ~~assignments, a claim on appeal, or other information~~
30 ~~necessary for the plan to determine the medical necessity~~
31 ~~for the health care services provided.~~

32 ~~(d) If a claim or portion thereof is contested on the~~
33 ~~basis that the plan has not received all information~~
34 ~~necessary to determine payer liability for the claim or~~
35 ~~portion thereof and notice has been provided pursuant to~~
36 ~~this section, then the plan shall have 30 working days or,~~
37 ~~if the health care service plan is a health maintenance~~
38 ~~organization, 45 working days after receipt of this~~
39 ~~additional information to complete reconsideration of the~~
40 ~~claim.~~

~~(e) The obligation of the plan to comply with this section shall not be deemed to be waived when the plan requires its medical groups, independent practice associations, or other contracting entities to pay claims for covered services.~~

~~(f) If a health care service plan fails to comply with this section with regard to payment of a claim submitted by an emergency provider, the emergency provider shall be entitled to a penalty of 30 percent of the total dollar amount of the claim paid, but shall not be entitled to the interest amount described in subdivision (b). If an emergency provider receives no denial, payment, or other response from the plan regarding a claim, and the emergency provider resubmits the claim at least 21 working days after the first submission, and the plan does not deny, contest, or pay the claim within 45 working days after the second submission, the emergency provider shall be entitled to a penalty equal to two times the total dollar amount of the claim, plus the amount of the claim. The emergency provider shall not be entitled to the interest amount described in subdivision (b).~~

~~(g) If a court finds that a health care service plan failed to comply with this section, the court shall award to the emergency provider the amount of the claim in addition to penalties described in subdivision (f), plus court costs and reasonable attorney fees.~~

~~(h) For the purposes of subdivision (f) and (g), “emergency provider” means an individual emergency physician, multiple emergency physicians in group practice providing emergency medical services in the emergency department of a general acute care hospital, and the emergency department of a general acute care hospital. “Emergency provider” also means an on-call physician specialist who comes to the emergency department at the request of an emergency physician to provide speciality care.~~

~~SECTION 1. Section 1317.1 of the Health and Safety Code is amended to read:~~

1 1317.1. Unless the context otherwise requires, the
2 following definitions shall control the construction of this
3 article:

4 (a) "Emergency services and care" means medical
5 screening, examination, and evaluation by a physician, or,
6 to the extent permitted by applicable law, by other
7 appropriate personnel under the supervision of a
8 physician, to determine if an emergency medical
9 condition or active labor exists and, if it does, the care,
10 treatment, and surgery by a physician *or other*
11 *appropriate personnel* necessary to ~~relieve or eliminate~~
12 *render* the emergency medical condition *or active labor*
13 *stabilized*, within the capability of the facility. *An*
14 *emergency medical screening examination shall include*
15 *ancillary services routinely available to the emergency*
16 *department.*

17 (b) "Emergency medical condition" means a medical
18 condition manifesting itself by acute symptoms of
19 sufficient severity (including severe pain) such that the
20 absence of immediate medical attention could ~~reasonably~~
21 ~~be expected to~~ result in any of the following:

22 (1) Placing the ~~patient's~~ *health of the patient, or, with*
23 *respect to a pregnant woman, the health of the woman or*
24 *her unborn child*, in serious jeopardy.

25 (2) Serious impairment to bodily functions.

26 (3) Serious dysfunction of any bodily organ or part.

27 (c) "Active labor" means a labor at a time at which
28 either of the following would occur:

29 (1) There is inadequate time to effect safe transfer to
30 another hospital prior to delivery.

31 (2) A transfer may pose a threat to the health and
32 safety of the patient or the unborn child.

33 (d) "Hospital" means all hospitals with an emergency
34 department licensed by the state department.

35 (e) "State department" means the State Department
36 of Health Services.

37 (f) "Medical hazard" means a material deterioration
38 in, or jeopardy to, a patient's, *or, with respect to a*
39 *pregnant woman, the unborn child's*, medical condition
40 or expected chances for recovery.

1 (g) “Board” means the Medical Board of California.

2 (h) “Within the capability of the facility” means those
3 capabilities—~~which~~ *that* the hospital is required to have as
4 a condition of its emergency medical services permit and
5 services specified on Services Inventory Form 7041 filed
6 by the hospital with the Office of Statewide Health
7 Planning and Development.

8 (i) “Consultation” means the rendering of an opinion,
9 advice, or prescribing treatment by telephone and, when
10 determined to be medically necessary jointly by the
11 emergency and the specialty physicians, includes review
12 of the patient’s medical record, examination, and
13 treatment of the patient in person by a specialty physician
14 who is qualified to give an opinion or ~~render~~ *provide* the
15 necessary treatment in order to ~~stabilize~~ *render* the
16 patient *stabilized*.

17 (j) “Stabilized” or “stabilization” means either of the
18 following:

19 (1) *With respect to an emergency medical condition,*
20 *that no material deterioration of the condition is likely,*
21 *within reasonable medical probability, to result from or*
22 *occur during the transfer of the individual from a facility.*

23 (2) *With respect to a woman in active labor, that the*
24 *woman has delivered, including the placenta.*

25 SEC. 2. Section 1371.4 of the Health and Safety Code
26 is amended to read:

27 1371.4. (a) A health care service plan, or its
28 contracting medical providers, shall provide 24-hour
29 access for enrollees and providers to obtain timely
30 authorization for medically necessary care, for
31 circumstances where the enrollee has received
32 emergency services and care ~~as defined in Section 1317.1,~~
33 is stabilized, but the treating provider believes that the
34 enrollee may not be transferred or discharged safely. A
35 physician and surgeon shall be available for consultation
36 and for resolving disputed requests for authorizations. A
37 health care service plan that does not require prior
38 authorization as a prerequisite for payment for necessary
39 medical care following stabilization of an emergency

1 ~~condition~~ *medical condition or active labor* need not
2 satisfy the requirements of this subdivision.

3 (b) A health care service plan shall reimburse
4 providers for an emergency medical screening
5 ~~examination, and all emergency services and care, as~~
6 ~~defined in Section 1317.1, examination provided to its~~
7 *enrollees. A health care service plan shall also reimburse*
8 *providers for all emergency services and care* provided to
9 its enrollees, until the care results in stabilization of the
10 enrollee, except as provided in subdivision (c).

11 (c) Payment for emergency services and care may be
12 denied only if the health care service plan reasonably
13 determines that the emergency services and care were
14 never performed ~~or in cases in which an emergency did~~
15 ~~not exist. For purposes of this subdivision, an emergency~~
16 ~~shall be deemed to exist when a medical condition~~
17 ~~manifests itself by acute symptoms of sufficient severity,~~
18 ~~including severe pain, such that a prudent layperson, who~~
19 ~~possesses an average knowledge of health and medicine,~~
20 ~~could reasonably expect the absence of immediate~~
21 ~~medical attention to result in placing the health of the~~
22 ~~individual, or with respect to a pregnant woman, the~~
23 ~~health of the woman or her unborn child, in serious~~
24 ~~jeopardy, serious impairment to bodily functions, or~~
25 ~~serious physical dysfunction. As long as. Further, a health~~
26 *care service plan may deny reimbursement to a provider*
27 *for a medical screening examination in cases in which (1)*
28 *the plan enrollee did not require emergency services and*
29 *care and (2) a prudent layperson, possessing an average*
30 *knowledge of health and medicine, should have known*
31 *that an emergency medical condition or active labor did*
32 *not exist. As long as* federal or state law requires that
33 emergency services and care be provided without first
34 questioning the patient's ability to pay, a health care
35 service plan shall not require a provider to obtain
36 authorization prior to the provision of emergency
37 services and care.

38 (d) If there is a disagreement between the health care
39 service plan and the provider regarding the need for
40 necessary medical care, the plan shall assume

1 responsibility for the care of the patient either by having
2 its medical personnel personally take over the ~~ease~~ care
3 of the patient within a reasonable amount of time after
4 the disagreement, or by having a general acute care
5 hospital ~~under contract with the plan and a physician and~~
6 ~~surgeon, both under contract with the plan,~~ agree to
7 accept the transfer of the patient as provided in Section
8 1317.2, Section 1317.2a, or other pertinent statute.
9 However, this requirement shall not apply to necessary
10 medical care provided in hospitals outside the service
11 area of the health care service plan. If the health care
12 service plan fails to satisfy the requirements of this
13 subdivision, further necessary care shall be deemed to
14 have been authorized by the plan. Payment for this care
15 may not be denied.

16 (e) A health care service plan may delegate the
17 responsibilities enumerated in this section to the plan's
18 contracting medical providers.

19 (f) Subdivisions (b), (c), (d), and (g) shall not apply
20 with respect to either a provider with which the health
21 care service plan has a contract that includes the
22 provision of emergency services and care and necessary
23 medical care or a health care service plan that has
24 3,500,000 enrollees and maintains a prior authorization
25 system which includes the availability by telephone
26 within 30 minutes of an emergency physician who is on
27 duty at an emergency department of a general acute care
28 hospital.

29 (g) The Department of Corporations shall adopt by
30 July 1, 1995, on an emergency basis, regulations governing
31 instances when an enrollee requires medical care
32 following stabilization of an emergency condition,
33 including appropriate timeframes for a health care
34 service plan to respond to requests for treatment
35 authorization.

36 (h) *The definitions set forth in Section 1317.1 shall*
37 *control the construction of this section.*

38 SEC. 3. No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred

1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

8 Notwithstanding Section 17580 of the Government
9 Code, unless otherwise specified, the provisions of this act
10 shall become operative on the same date that the act
11 takes effect pursuant to the California Constitution.

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